IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1478 of 2005

Between:

G.Lakshmaiah, S/o Mogalaiah,
R/o Husnabad Village and Mandal, Karimnagar District.

..... PETITIONER

AND

1 The Commissioner of Prohibition & Excise, Andhra

Pradesh at Nampally, Hyderabad.
2 The Deputy Commissioner of Prohibition and Excise,

Karimnagar Division at Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or writs, order or direction, declaring the action of the first respondent in not ordering release of the vehicle bearing No.AP. 15 T 1873 in favour of the petitioner, as illegal and arbitrary: Award Costs and pass such other or further orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.N.SRIDHAR REDDY
Counsel for the Respondents .: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following :

O R D E R

The vehicle of the petitioner, bearing No. AP 15T 1873 was seized by the S.I. of Police, Husnabad on 1.1.2004, on the allegation that it was used in transporting black jaggery and alum. Proceedings were initiated before the 2nd respondent under Section 34(a) and (e) of A.P. Excise Act. Through order dated 17.8.2004, the 2nd respondent directed confiscation of the vehicle of the petitioner. Aggrieved thereby, the petitioner preferred an appeal before the 1st respondent. He also filed application for release of the vehicle. His grievance is that 1st respondent has not passed any orders and, therefore, seeks appropriate directions.

2. Heard the learned counsel for the petitioner and the Government Pleader for Excise.

3. Admittedly the petitioner did not have the custody of the vehicle

during the pendency of the proceedings before the 2nd respondent. 2nd respondent, through an order dated 17.8.2004 directed confiscation of the vehicle. Therefore, the situation cannot be said to have improved in favour of the petitioner. The question of permitting the custody of the vehicle with the petitioner during the pendency of the appeal would arise if only she had the benefit of the custody of the vehicle, during the pendency of the proceedings before the 2nd respondent. Therefore, this Court does not find any ground to accede to the prayer of the petitioner. However, his interest can be protected by directing the 1st respondent to expedite the hearing of the appeal, and by staying the sale of the vehicle.

4 . Hence, the writ petition is disposed of directing that the 1st respondent shall dispose of the appeal preferred by the petitioner within a period of six weeks from the date of receipt of a copy of this order, and till the disposal of the appeal, vehicle belonging to the petitioner shall not be sold. No costs.

AVS ----------

07.02.2005

Note:

Issue C.C. in three days.

B/O

To

1 The Commissioner of Prohibition & Excise, Andhra Pradesh at Nampally, Hyderabad.

2 The Deputy Commissioner of Prohibition and Excise, Karimnagar Division at Karimnagar.

3. Two copies to G.P. for Prohibition and Excise, A.P. High court Buildings, Hyderabad (OUT).

4. Two C.D. copies.